


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY  D.C.
05 NOV -2 AM 9:03

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TENN. MEMPHIS

**PHILLIP M. SMITH and wife,
SOPHIA SMITH,**

Plaintiffs,

vs.

Case No.: 2:05-cv-02775-JPM-tmp

**MERCK & CO., INC.;
EXPRESS SCRIPTS, INC.;
SARAH C. CAPOCACCIA;
STEPHANIE B. ISON;
JENNIFER PACE,
CRAIG BRELAND; and
EDWYNA R. BONNER**

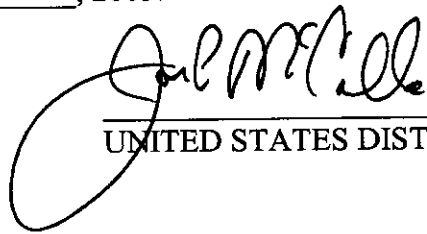
Defendants.

ORDER REGARDING STAY

Defendant Merck & Co., Inc. having moved for a stay of all proceedings pending transfer of the case to the transferee court in the Vioxx® MDL, and Plaintiffs having filed a response seeking to limit the scope of any stay to matters other than those related to the determination of the issue of subject matter jurisdiction, as raised by Plaintiffs' Motion to Remand, and the Court being of the opinion that there is merit to determining the issue of subject matter jurisdiction before the case is transferred to the MDL Court, it is ORDERED:

Merck's motion to stay is GRANTED in part and DENIED in part; these proceedings will be stayed except that proceedings reasonably related to the issues raised by Plaintiffs' Motion to Remand are not included within the scope of this stay and the parties will be permitted to engage in discovery and to submit evidence with respect to those issues.

Signed this the 1 day of Nov., 2005.


UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 11 in case 2:05-CV-02775 was distributed by fax, mail, or direct printing on November 2, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT